

**STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT**

IN THE MATTER OF: GARY PETERSON

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File No. 1200052

NOTICE OF HEARING

**TO THE RESPONDENT: GARY PETERSON
1749 FOX WOOD COURT
ROCKFORD, IL 61107**

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 19th day of November, 2015 at the hour of 10:00 a.m. or as soon as possible thereafter, before James Kopecky Esq., or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered pursuant to Section 11.E of the Act suspending or revoking Respondent's registration, prohibiting the Respondent from selling or offering for sale securities and/or offering investment advice in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount pursuant to Section 11.E of the Act, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

NATURE OF THE CASE

Gary W. Peterson (CRD#601746) was a registered salesperson for Ameriprise Financial Services, Inc. ("Ameriprise") between October 5, 2009 and July 17, 2012. During this time period he committed or participated in violations of the Illinois Securities Act through fraudulent statements and deceptive practices by buying and selling an Investor's account assets in a deliberate scheme to garner excessive fees for himself rather than to act in the account for the benefit of Investors. His representation of the Investor's assets was not in the best interests of the Investor and resulted in a loss of Investor's account assets. During this time period, Peterson received thousands of dollars of commissions and other compensation payments for transactions

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he effected in the name of the Investor and his representation of the Investor's assets. On July 17, 2012 Respondent Peterson's employment with Ameriprise was terminated for company policy violations related to an undisclosed fiduciary relationship with a client outside the firm.

In October 2013, the Financial Industry Regulatory Industry ("FINRA"), a private corporation that serves the investment industry and of which registered brokers and dealers are members, issued an "Intent to Suspend Letter" against Peterson which became a permanent bar for Peterson to be associated with any of FINRA's members in any capacity.

BACKGROUND FACTS

1. Ameriprise Financial Services, Inc., at all relevant times herein was registered as a broker dealer with the Illinois Securities Department.
2. Gary Peterson ("Peterson"), a resident of Illinois, at all relevant times herein was a registered salesperson for Respondent Ameriprise Financial Services, Inc. On July 17, 2012 Respondent Peterson's employment with Ameriprise was terminated.
3. At all relevant times herein, Respondent Peterson represented the Ameriprise trading account of Investor.
4. Investor ("Investor") is over the age of 80 years and was retired at the time his account was opened at Ameriprise.

PETERSON CHURNED THE ACCOUNT OF SENIOR CITIZEN CUSTOMER

5. Excessive trading, often called "churning," occurs when a securities broker or advisor representative effectuates trades in a customer's account that are excessive in size or frequency in light of that customer's investment objectives and risk tolerance and is done for the purpose of generating commissions at the detriment of the customer.
6. Oft times, as here, when churning an account the representative buys and sells the same, or similar, securities repeatedly and in short order to garner commissions on the transaction at the detriment of the account owner.
7. Investor had been a client of Peterson since 1972. Rather than represent the Investor in a reasonable and proper manner, Peterson took advantage of the age and trust of Investor to earn excessive income.

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8. The churning of an investment portfolio by a representative, such as Peterson, is evidenced by the Turnover Ratio.
9. The Turnover Ratio is computed by dividing the total cost of purchases by the average account value during the same time frame.
10. Thus, the Turnover Ratio is a measurement of how often the holdings in a portfolio are sold and purchased (replaced) during a period of time, with a "1", or 100% when represented as a percentage, meaning the total equity of the portfolio was sold and re-purchased in that time-frame.
11. During 2009, Peterson's trading in Investor's account resulted in a turnover ratio of 4.61. That is, Peterson bought and sold the holdings of the account over four times.
12. During 2010, Peterson's trading in Investor's account resulted in a turnover ratio of 5.95. That is, Peterson bought and sold the holdings of the account over five times.
13. During 2011, Peterson's trading in Investor's account resulted in a turnover ratio of 6.42. That is, Peterson bought and sold the holdings of the account over six times.
14. Another measure to evidence churning is the Cost to Equity ratio which measures what the return the investments would be necessary to obtain to cover the commissions and fees charged to the client.
15. Commissions and fees associated with the purchase and sale of securities reduce an investor's possible return on an investment, thus it is incumbent for a representative to minimize the number of trading recommendations so as to not eliminate any gains made, or, as in this case, cause losses to the investor's account equity.
16. The Cost to Equity ratio is computed by dividing the total commissions and fees paid by the average account equity during the same period of time.
17. Peterson's trading in Investor's account during 2009 resulted in a high Cost to Equity ratio of 4.9%, that is, Peterson's trades would have had to garner a 4.9% return just for the account to keep its current value or breakeven.
18. During 2010, Peterson's trading in Investors account resulted in a high Cost to Equity ratio of 5%, that is, Peterson's trades would have had to garner a 5% return just for the account to keep its current value or breakeven.

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19. During 2011, Peterson's trading in Investors account resulted in another high Cost to Equity ratio of 6%, that is, Peterson's trades would have had to garner a 6% return just for the account to keep its current value or breakeven.
20. Peterson's trading activity in Investor's account in 2009, 2010 and 2011 garnered \$24,769.41, \$23,169.23 and \$25,993.76 in commissions, respectively.

VIOLATIONS OF THE ILLINOIS SECURITIES LAW OF 1953

21. Peterson's activities described above, namely the recommendations to Investor to sell and buy certain securities in his brokerage accounts constitute the activities of a salesperson as defined under Section 2.9 of the Illinois Securities Law of 1953 (the "Act").
22. Section 12.A of the Act states in pertinent part that it shall be a violation of the Act for any person to offer or sell any security except in accordance with the provisions of the Act.
23. Section 12.F of The Illinois Securities Law of 1953, 815 ILCS 5/1 *et seq.* (The "Act") states that it shall be a violation of the provisions of this Act for any person to, "engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof." 815 ILCS 5/12.F.
24. Peterson's excessive trading that he effected in Investor's account was done without Investor's knowledge and without full disclosure of the impact that the costs, fees, and commissions that Peterson's trades would cause to Investor's accounts. Moreover, the excessive trades were not suitable for Investor and constitute a violation of Section 12.F of the Act.
25. Section 12.G of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, "to obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading".
26. Peterson's excessive trading that he effected in Investor's account generated commissions at the detriment of Investor, without full disclosure of the impact that the costs, fees, and commissions that Peterson's trades would cause to Investor's accounts. By virtue of the foregoing, Peterson violated Sections 12.G of the Act.

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27. Section 12.I of the Act provides, *inter alia*, that it shall be a violation of the Act for any person, "to employ any device, scheme or artifice, to defraud in connection with the sale or purchase of any security, directly or indirectly".
28. Peterson's excessive trading that he effected in Investor's account generated commissions at the detriment of Investor. By virtue of the foregoing, Peterson violated Sections 12.I of the Act.
29. Section 130.850(a) of the Rules and Regulations Under the Illinois Securities Law of 1953 states that:

No dealer or salesperson shall effect transactions for any customer's account which are excessive in size or unsuitable in view of the financial resources of the customer.

30. Peterson's excessive trading in Investor's brokerage accounts constitutes a violation of Section 130.850 of the Rules.
31. Section 8.E(1)(b) of the Act provides in pertinent part that, subject to the provisions of sub-section F of the Act, the registration of a salesperson may be denied, suspended or revoked if that salesperson has engaged in any unethical practice in connection with any security, the offer and sale of securities or in any fraudulent business practice.
32. Section 8.E(1)(g) of the Act provides in pertinent part that, subject to the provisions of sub-section F of the Act, the registration of a salesperson may be denied, suspended or revoked if that salesperson has violated any of the provisions of the Act.
33. Section 8.E(1)(j) of the Act states in pertinent part that the registration of a salesperson of securities or an investment advisor representative may be suspended or revoked if that registrant has had membership or association with any self regulatory organization registered under the Federal 1934 Act or the Federal 1974 Act suspended, revoked, refused, expelled, cancelled, barred, limited in any capacity, or otherwise adversely affected in a similar manner arising from any fraudulent or deceptive act or practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory organization.
34. Section 11.E(2) of the Act provides that the Secretary of State may prohibit any person from offering and selling securities in the State of Illinois if there is a finding that the person violated subsection C, D, E, F, G, H, I, J or K of Section 12 of the Act.
35. Section 11.E(4) of the Act provides that in addition to any other sanction or remedy contained in Section 11 E. of the Act, the Secretary of State, after finding

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that any provision of the Act has been violated, may impose a fine not to exceed \$10,000.00 per violation and may charge as costs of investigation all reasonable expenses including attorney's fees and witness fees.


You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 Ill. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be requested by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default; unless any Respondent has upon due notice moved for and obtained a continuance.

A copy of the Rules, promulgated under the Act and pertaining to hearings held by the Office of the Secretary of State, Securities Department, is included with this Notice.

Delivery of Notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated: This 31st day of August 2015.


JESSE WHITE
Secretary of State
State of Illinois

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